

## CLAIMS: THE CASE OF WHALING SHIP "GEORGE HOWLAND"

*Agreement signed at Quito November 13, 1857*

*Entered into force November 13, 1857*

*Replaced by agreement of November 25, 1862<sup>1</sup>*

7 Miller 707

### AGREEMENT

At a conference this day held in the Office of the Legation of the United States in this City, between the Honorable Francisco Javier Salazar, Plenipotentiary on the part of Ecuador for the investigation and adjustment of certain *Claims* of citizens of the United States against this Republic,—and Philo White, Minister Resident and Plenipotentiary in behalf of the United States,—the case of Matthew Howland was taken into consideration, in which a claim for indemnity from Ecuador is based upon alleged losses sustained by his Whale Ship the "George Howland", while under seizure by the Ecuatorian convicts confined on Charles Island (one of the Galápagos Group belonging to this Republic,) in the month of March, 1852.

Although the fact of the seizure of the claimant's vessel, as set forth in his complaint, is not denied, and, in the opinion of both Plenipotentiaries, he is entitled to some degree of indemnity,—yet so defective are the papers and vouchers presented to the commission,—so vague in their phraseology, and so indefinite in the sums stated,—as to cause much perplexity in ascertaining the amount of the loss really sustained by the claimant: In view of these difficulties, therefore, in the proper adjustment of this claim, the undersigned have agreed to recommend to the parties concerned, to assent to the appointment of a *Mixed Commission*, as the fairest and most feasible plan for determining what *amount* of indemnity ought equitably to be paid to Mr. Howland: Such Commission to hold its sessions at Guayaquil, and to be composed of three Gentlemen,—one of whom shall be an Ecuatorian citizen, and receive his appointment from the Central Government of the Republic;

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<sup>1</sup> The Mixed Commission called for by the agreement was not constituted. The claim was presented to a commission set up by an agreement of Nov. 25, 1862 (TS 77, *post*, p. 316), which made an award of \$50,000, inclusive of interest and exchange (7 Miller 712).

another to be a citizen of the United States resident in Ecuador, and who shall be designated by the Minister or Consul of that country accredited in this Republic; and the third to be a Foreign Gentleman resident at Guayaquil, and who may be indifferent as to the issues in this question, to be designated by the joint vote of the two first-named Commissioners: Their award to be final as to the amount of indemnity, unless the two Governments shall mutually agree upon a different sum. The actual and necessary expenses of the Commission, will be shared equally between the two parties interested.

The Members who are to constitute the Mixed Commission provided for in this "Agreement", shall be appointed and enter upon the discharge of their duties as soon as the Minister or Consul of the United States shall announce to the Government of Ecuador that the new and amended vouchers expected from the claimant in the case, are received and ready for the use of the Commission in Guayaquil.

In testimony whereof, the undersigned, as Plenipotentiaries in behalf of their respective Governments, have signed and sealed this "Agreement" in triplicate, at the City of Quito, on the thirteenth day of November, in the year One Thousand Eight Hundred and Fifty Seven.

PHILO WHITE	[SEAL]
FRANCISCO JAVIER SALAZAR	[SEAL]